



March 23, 2001

---

---

## ENGROSSED HOUSE BILL No. 1193

---

DIGEST OF HB 1193 (Updated March 22, 2001 10:08 AM - DI 73)

**Citations Affected:** IC 5-10.

**Synopsis:** Provides that the deferred compensation committee shall adopt provisions in a defined contribution plan for the purpose of converting unused excess accrued leave to a monetary contribution for employees of a state agency. Requires the state personnel department to adopt rules concerning: (1) the type and amount of leave that may be converted to a monetary contribution; (2) the conversion formula for valuing any leave that is converted; (3) the manner of employee selection of leave conversion; and (4) the vesting schedule for any leave that is converted. The rules adopted by the state personnel department must provide for a conversion rate under which the amount contributed on behalf of a participating employee for a day of leave that  
(Continued next page)

**Effective:** July 1, 2001; July 1, 2002.

---

---

### Kromkowski, Buell, Tincher

(SENATE SPONSORS — HARRISON, CRAYCRAFT, YOUNG R MICHAEL)

---

---

January 9, 2001, read first time and referred to Committee on Ways and Means.  
February 19, 2001, amended, reported — Do Pass.  
February 22, 2001, read second time, ordered engrossed. Engrossed.  
February 26, 2001, read third time, passed. Yeas 96, nays 2.

SENATE ACTION

March 1, 2001, read first time and referred to Committee on Pensions and Labor.  
March 22, 2001, amended, reported favorably — Do Pass; reassigned to Committee on Finance.

---

---

C  
o  
p  
y

EH 1193—LS 6303/DI 73+



is converted is equal to at least 60% of the employee's daily pay as of the employee's retirement date. Provides that the provisions may be implemented only if the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate. Provides that the existing provisions establishing a Section 125 cafeteria plan program for unused leave time for state employees do not apply after the defined contribution plan is implemented and the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate for the defined contribution plan. Provides that the deferred compensation committee may use funds available under the plan to hire or contract with qualified attorneys, financial advisors, or other professional or administrative persons. Provides that the deferred compensation committee may annually elect a chairperson and secretary. Provides that the two members of the deferred compensation committee who must be participants in the state employees' deferred compensation plan may not serve for more than two consecutive three year terms. Authorizes a political subdivision that uses the state employees' deferred compensation plan for its employees to participate in the state defined contribution plan established under Section 401(a) of the Internal Revenue Code for the purpose of matching all or a specified portion of the political subdivision's employees' contributions to the deferred compensation plan.

C  
o  
p  
y



March 23, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## ENGROSSED HOUSE BILL No. 1193

---

A BILL FOR AN ACT to amend the Indiana Code concerning employee benefits.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-10-1.1-1.5, AS ADDED BY P.L.273-1999,  
2 SECTION 231, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2001]: Sec. 1.5. (a) The state, through the  
4 budget agency, may adopt a defined contribution plan, under Section  
5 401(a) of the Internal Revenue Code, for the purpose of matching all  
6 or a specified portion of state employees' contributions to the state  
7 employees' deferred compensation plan **and for any additional**  
8 **purposes established by statute.**  
9 (b) The deferred compensation committee shall be the trustee of a  
10 plan established under subsection (a) as described in section 4 of this  
11 chapter. A plan established under subsection (a) shall be administered  
12 by the auditor of state as described in section 5 of this chapter.  
13 (c) The deferred compensation committee may approve funding  
14 offerings for a plan established under subsection (a), which may be the  
15 same as offerings for the state employees' deferred compensation plan.  
16 All funds in each plan shall be separately accounted for but may be  
17 commingled for investment purposes.

EH 1193—LS 6303/DI 73+



C  
o  
p  
y

(d) Contributions to a plan established under subsection (a) are limited to the amount of biennial appropriations ~~made for that purpose.~~ **the budget agency determines are available for any such purposes. The deferred compensation committee may use funds available under the plan to hire or contract with qualified attorneys, financial advisers, or other professional or administrative persons that the committee believes are necessary or useful in the administration of the plan.**

(e) A plan established under subsection (a) must include appropriate provisions concerning the plan's day to day operation and any other provisions that are appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, online activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.

(f) The state is obligated at any particular time only for the current market value of the funding previously made to a plan established under subsection (a).

**(g) The state board of finance shall extend the plan established under subsection (a) to any political subdivision that also elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) of this chapter.**

SECTION 2. IC 5-10-1.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The deferred compensation committee is established. The committee consists of five (5) persons appointed by the state board of finance as follows:

- (1) Each member of the state board of finance shall appoint one (1) member to the committee.
- (2) The remaining two (2) members:
  - (A) must be participants in the state employees' deferred compensation plan;
  - (B) may not be employees of the members of the state board of finance; ~~and~~
  - (C) must be from different political parties; **and**
  - (D) may not serve for more than two (2) consecutive three (3) year terms.**

**(b) The deferred compensation committee may annually elect a chairperson and a secretary.**

**(c) The deferred compensation committee may approve proposed funding offerings investment products for the state employees' deferred compensation plan.**



C  
o  
p  
y

(~~c~~) (d) All amounts deferred under the state employees' deferred compensation plan must be put into a trust for the exclusive benefit of plan participants, as required by Section 457(g) of the Internal Revenue Code. The deferred compensation committee is the trustee of the trust.

(~~d~~) (e) The plan shall include appropriate provisions pertaining to its day to day operation providing for methods of electing to defer income, methods of changing the amount of income to be deferred, and such other provisions as may be appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, on-line activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.

(~~e~~) (f) The plan shall provide for the preparation and distribution, from time to time to all eligible employees, of pamphlets describing the plan and outlining the opportunities available to employees under the plan.

(~~f~~) (g) The state board of finance shall extend the plan to any political subdivision which elects to utilize the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) of this chapter.

(~~g~~) (h) At least annually, the deferred compensation committee shall report to the state board of finance on the status of the state employees' deferred compensation plan, including any changes to the plan.

SECTION 3. IC 5-10-1.1-7.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 7.3. (a) Any political subdivision (as defined in IC 36-1-2-13) that elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) of this chapter also may elect to participate in the state's defined contribution plan established by section 1.5 of this chapter for the purpose of matching all or a specified portion of the political subdivision's employees' contributions to the deferred compensation plan.**

**(b) Participation in the state's defined contribution plan described in subsection (a) shall be authorized by the governing body of the political subdivision, which in the case of a unit subject to IC 36-1-3 shall be done by ordinance.**

**(c) Contributions by a political subdivision to the state's defined contribution plan described in subsection (a) for the purpose of matching all or a specified portion of employee contributions are limited to the amount of appropriations made each year for that**



purpose.

(d) The political subdivision is obligated at any particular time only for the current market value of the funding previously made to the state's defined contribution plan described in subsection (a).

(e) This section does not limit the power or authority of any political subdivision to establish and administer any other plans considered appropriate by the governing body of the political subdivision, including plans established under section 1(2) of this chapter.

SECTION 4. IC 5-10-1.1-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7.5. (a) As used in this section, "state agency" means the following:

- (1) An authority, a board, a branch, a commission, a committee, a department, a division, or other instrumentality of state government.
- (2) A separate corporate body politic that adopts the plan described in subsection (b).
- (3) State elected officials and their office staff.
- (4) The legislative services agency.
- (5) Legislative staff eligible to participate in the state employees' deferred compensation plan established by section 1 of this chapter.

However, the term does not include a state educational institution (as defined in IC 20-12-0.5-1) or a political subdivision.

(b) The deferred compensation committee shall adopt provisions in a defined contribution plan, under Sections 401(a) and 414(d) of the Internal Revenue Code, for the purpose of converting unused excess accrued leave to a monetary contribution for employees of a state agency. These provisions may be part of the plan and trust established under section 1.5(a) of this chapter.

(c) The deferred compensation committee shall be the trustees of the plan described in subsection (b). The plan must be a qualified plan, as determined by the Internal Revenue Service.

(d) The state personnel department shall adopt rules under IC 4-22-2 that it considers appropriate or necessary to implement this section. The rules adopted by the state personnel department under this section must:

- (1) be consistent with the plan described in subsection (b);
- (2) include provisions concerning:
  - (A) the type and amount of leave that may be converted to a monetary contribution;



C  
o  
p  
y

(B) the conversion formula for valuing any leave that is converted;

(C) the manner of employee selection of leave conversion; and

(D) the vesting schedule for any leave that is converted; and

(3) apply to all state agencies.

(e) The rules adopted by the state personnel department under subsection (d) specifying the conversion formula must provide for a conversion rate under which the amount contributed on behalf of a participating employee for a day of leave that is converted under this section is equal to at least sixty percent (60%) of the employee's daily pay as of the date the leave is converted.

(f) The deferred compensation committee may adopt the following:

(1) Plan provisions governing:

(A) the investment of accounts in the plan; and

(B) the accounting for converted leave.

(2) Any other plan provisions that are necessary or appropriate for operation of the plan.

(g) The plan described in subsection (b) may be implemented only if the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate.

SECTION 5. IC 5-10-12-3, AS ADDED BY P.L.195-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Subject to subsection (b) and (c), an employee who:

(1) has at least ten (10) years of creditable service with a state agency;

(2) retires after June 30, 2000; and

(3) has accrued and unused sick days, vacation days, or personal days on the employee's retirement date;

is entitled to have the amounts specified in section 5 of this chapter deposited by the state into a cafeteria plan under Section 125 of the Internal Revenue Code.

(b) The provisions of this chapter requiring the department to make deposits into a cafeteria plan on behalf of retired employees described in subsection (a) apply only if the department has received from the Internal Revenue Service any approvals or rulings that the department considers necessary or appropriate for the cafeteria plan.

(c) The provisions of this chapter requiring the department to

C  
o  
p  
y



1     **make deposits into a cafeteria plan on behalf of retired employees**  
2     **described in subsection (a) do not apply if the plan described in**  
3     **IC 5-10-1.1-7.5(b) is implemented and the deferred compensation**  
4     **committee has received from the Internal Revenue Service any**  
5     **rulings or determination letters that the committee considers**  
6     **necessary or appropriate for the plan described in**  
7     **IC 5-10-1.1-7.5(b).**

C  
o  
p  
y





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1193, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1193 as introduced.)

BAUER, Chair

Committee Vote: yeas 23, nays 0.

C  
o  
p  
y

EH 1193—LS 6303/DI 73+



SENATE MOTION

Mr. President: I move that Senator Young R Michael be added as cosponsor of Engrossed House Bill 1193.

HARRISON

C  
o  
p  
y



## COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1193, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 2, strike " made for that purpose." and insert **"the budget agency determines are available for any such purposes. The deferred compensation committee may use funds available under the plan to hire or contract with qualified attorneys, financial advisers, or other professional or administrative persons that the committee believes are necessary or useful in the administration of the plan."**

Page 2, between lines 13 and 14, begin a new paragraph and insert: **"(g) The state board of finance shall extend the plan established under subsection (a) to any political subdivision that also elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) of this chapter.**

SECTION 2. IC 5-10-1.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The deferred compensation committee is established. The committee consists of five (5) persons appointed by the state board of finance as follows:

- (1) Each member of the state board of finance shall appoint one (1) member to the committee.
- (2) The remaining two (2) members:
  - (A) must be participants in the state employees' deferred compensation plan;
  - (B) may not be employees of the members of the state board of finance; ~~and~~
  - (C) must be from different political parties; ~~and~~
  - (D) may not serve for more than two (2) consecutive three (3) year terms.**

**(b) The deferred compensation committee may annually elect a chairperson and a secretary.**

**(c) The deferred compensation committee may approve proposed funding offerings investment products** for the state employees' deferred compensation plan.

~~(c)~~ **(d)** All amounts deferred under the state employees' deferred compensation plan must be put into a trust for the exclusive benefit of plan participants, as required by Section 457(g) of the Internal Revenue Code. The deferred compensation committee is the trustee of the trust.

~~(d)~~ **(e)** The plan shall include appropriate provisions pertaining to its day to day operation providing for methods of electing to defer

EH 1193—LS 6303/DI 73+



C  
o  
p  
y

income, methods of changing the amount of income to be deferred, and such other provisions as may be appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, on-line activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.

~~(e)~~ **(f)** The plan shall provide for the preparation and distribution, from time to time to all eligible employees, of pamphlets describing the plan and outlining the opportunities available to employees under the plan.

~~(f)~~ **(g)** The state board of finance shall extend the plan to any political subdivision which elects to utilize the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) of this chapter.

~~(g)~~ **(h)** At least annually, the deferred compensation committee shall report to the state board of finance on the status of the state employees' deferred compensation plan, including any changes to the plan.

SECTION 3. IC 5-10-1.1-7.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 7.3. (a) Any political subdivision (as defined in IC 36-1-2-13) that elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) of this chapter also may elect to participate in the state's defined contribution plan established by section 1.5 of this chapter for the purpose of matching all or a specified portion of the political subdivision's employees' contributions to the deferred compensation plan.**

**(b) Participation in the state's defined contribution plan described in subsection (a) shall be authorized by the governing body of the political subdivision, which in the case of a unit subject to IC 36-1-3 shall be done by ordinance.**

**(c) Contributions by a political subdivision to the state's defined contribution plan described in subsection (a) for the purpose of matching all or a specified portion of employee contributions are limited to the amount of appropriations made each year for that purpose.**

**(d) The political subdivision is obligated at any particular time only for the current market value of the funding previously made to the state's defined contribution plan described in subsection (a).**

**(e) This section does not limit the power or authority of any political subdivision to establish and administer any other plans**



C  
O  
P  
Y

considered appropriate by the governing body of the political subdivision, including plans established under section 1(2) of this chapter."

Page 2, between lines 22 and 23, begin a new line block indented and insert:

**"(3) State elected officials and their office staff.**

**(4) The legislative services agency.**

**(5) Legislative staff eligible to participate in the state employees' deferred compensation plan established by section 1 of this chapter."**

Page 3, line 11, delete "seventy-five" and insert **"sixty"**.

Page 3, line 11, delete "(75%)" and insert **"(60%)"**.

Page 3, line 12, delete "employee's retirement date." and insert **"date the leave is converted."**

Page 4, line 2, delete "IC 5-10-1.1-7.5(g)" and insert **"IC 5-10-1.1-7.5(b)"**.

Page 4, line 6, delete "IC 5-10-1.1-7.5(g)" and insert **"IC 5-10-1.1-7.5(b)"**.

Re-number all SECTIONS consecutively.

and when so amended that said bill be reassigned to the Senate Committee on Finance.

(Reference is to HB 1193 as printed February 20, 2001.)

HARRISON, Chairperson

Committee Vote: Yeas 9, Nays 0.

C  
o  
p  
y

